

REMARKS

Claims 23 and 25-44 are pending and under current examination. Applicants have cancelled claim 24, without prejudice and disclaimer of its subject matter, and amended claim 23 to incorporate the subject matter of claim 24. In addition, Applicants have amended claim 25 to update its dependence. Moreover, Applicants have amended claims 35 and 36 to incorporate some features recited in claim 36 into claim 35. Finally, Applicants have amended claim 39, to recite additional features already present in claim 23 and now-cancelled claim 24.

In the Final Office Action¹, the Examiner rejected claims 23-27, 35, and 39 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,411,802 (“*Cardina*”); and rejected claims 28-34, 36-38, and 40-44 under 35 U.S.C. § 103(a) as being unpatentable over *Cardina* in view of U.S. Patent Application Pub. No. 2002/0132613 (“*Leung*”). Applicants respectfully traverse the rejections for the following reasons.

Rejection of Claims 23-27, 35, and 39 under 35 U.S.C. § 103(a):

Claim 24 has been cancelled, therefore the rejection of claim 23 is moot. Applicants request reconsideration and withdrawal of the rejection of claims 23, 25-27, 35, and 39 under 35 U.S.C. § 103(a) as being unpatentable over *Cardina*.

The Office still has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007). In particular, the Final Office Action has not properly determined the scope and content of the prior

¹ The Final Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Final Office Action.

art, at least because the Final Office Action incorrectly interpreted the content of *Cardina*. Specifically, *Cardina* does not teach or suggest what the Final Office Action attributes to *Cardina*. In addition, the Final Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because the Final Office Action has not interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

Specifically, *Cardina* fails to teach or suggest at least Applicants' claimed "upon receiving, at the switching apparatus of the mobile telephony network, the call from the caller to the virtual mobile telephony number, first routing the call to the first telephony number," as recited in claim 23 (emphases added) (claims 35 and 39 containing similar recitations). Instead, *Cardina* discloses a telephone backup device for landline telephone equipment to provide emergency backup telephone service to the landline phone equipment upon detection of interruptions in the landline telephone equipment. *See Cardina*, Abstract and col. 2, lines 29-35. More specifically, *Cardina* discloses "a wireless communication device 206 [which] powers up" after a subscriber's landline telephone service is interrupted. *See Cardina*, col. 27, ll. 39-42, *see also* Fig. 13, steps 1300-1302.

Even though the wireless communication device could be reached by dialing a standard mobile identification number (MIN) or a virtual MIN with an additional access number "after the wireless device 206 has been activated" (*Cardina*, col. 27, ll. 45-52, emphasis added), a call to the wireless communication device will not be firstly routed "to the first [fixed] telephony number," as recited in claim 23, because the wireless communication device is functional only after the landline phone fails. That is, instead of "receiving a call placed to the virtual mobile telephony number . . . [and] first routing the call . . . to the first telephony number," *Cardina*

discloses a conventional call forwarding method which forwarding a call placed to a landline phone to a backup device after the landline phone fails. *See Cardina*, col. 29, ll. 4-7, col. 30, ll. 63-66, col. 27, ll. 33-38, and col. 30, ll. 12-20. Regardless of whether the backup device could be dialed directly, a call placed to the backup device will not be routed to the landline phone because the landline phone fails in the first place.

Therefore, *Cardina* does not teach or suggest at least Applicants' claimed "upon receiving, at the switching apparatus of the mobile telephony network, the call from the caller to the virtual mobile telephony number, first routing the call to the first telephony number," as recited in claim 23 (emphases added) (claims 35 and 39 containing similar recitations).

Thus, the Final Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Applicants therefore submit that independent claims 23, 35, and 39 are not obvious over *Cardina*. Independent claims 23, 35, and 39 should therefore be allowable. Dependent claims 25-27 should also be allowable at least by virtue of their dependence from base claim 23. Accordingly, Applicants respectfully request the withdrawal of the 35 U.S.C. § 103(a) rejection.

Rejection of Claims 28-34, 36-38, and 40-44 under 35 U.S.C. § 103(a):

Applicants request reconsideration and withdrawal of the rejection of claim 28-34, 36-38, and 40-44 under 35 U.S.C. § 103(a) as being unpatentable over *Cardina* in view of *Leung*.

As explained above, *Cardina* does not render any of Applicants' independent claims 23, 35, and 39 obvious. *Leung* does not cure the deficiencies of *Cardina*. For example, *Leung* discloses a responder that is used to, for example, receive checkpoint initiations from an initiator, and to send acknowledgments thereof. *See Leung*, par. [0102]. *Leung* further discloses that "[a] mobile station 12 may initiate [a] procedure, making the mobile station 12 [an] initiator and [a]

network station 14 [a] responder,” or “the network station 14 may initiate the procedure, making the network station 14 the initiator and the mobile station 12 the responder.” *Leung*, par. [0099]. Thus, the teachings of *Leung* are also clearly different from Applicants’ claimed “upon receiving, at the switching apparatus of the mobile telephony network, the call from the caller to the virtual mobile telephony number, first routing the call to the first telephony number,” as recited in claim 23 (emphases added) (claims 35 and 39 containing similar recitations).

In view of the reasoning presented above, Applicants submit that independent claims 23, 35, and 39 are not obvious over *Cardina* and *Leung*, whether taken alone or in combination. Independent claims 23, 35, and 39 should therefore be allowable. Therefore, dependent claims 28-34, 36-38, and 40-44 should also be allowable at least by virtue of their respective dependence from base claim 23, 35, or 39. Accordingly, Applicants respectfully request the withdrawal of the 35 U.S.C. § 103(a) rejection.

Conclusion:

Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 23 and 25-44 are in condition for allowance, and Applicants request a favorable action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

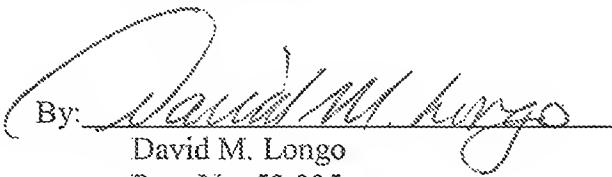
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 4, 2009

By:

David M. Longo
Reg. No. 53,235



/direct telephone: (571) 203-2763/